

249 CMR: BOARD OF REGISTRATION IN PODIATRY

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249 CMR: BOARD OF REGISTRATION IN PODIATRY

249 CMR 2.00: GENERAL PROVISIONS

Section

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2.01: Purpose and Authority

(1) Purpose. ~~249 CMR 2.00 is the Board of Registration in Podiatry's judgments concerning the practice of podiatry. Their purpose is to~~ **These** regulations prescribe substantive standards governing the practice of podiatric medicine, **such as criteria for medical necessity and documentation guidelines** which will promote the public health, welfare and safety, and inform podiatrists of the Board's expectations and requirements. The Board presumes that every podiatrist in the Commonwealth has notice of 249 CMR and expects that he **or she** will practice podiatric medicine in accordance with them. Any violation of 249 CMR may be considered as gross misconduct, misconduct, malpractice, misconduct involving moral turpitude, and/or unprofessional conduct and will be sufficient grounds for revocation, suspension or cancellation of a certificate.

(2) Authority. ~~The Board adopts 249 CMR 2.00 under the authority of M.G.L. c. 112, §§ 16, 17A, 19 and 61 through 65.~~

2.02: Definitions

For the purpose of 249 CMR, the terms listed below have the following meanings:

Adjudicatory Hearing means a hearing conducted in accordance with M.G.L. c. 30A and with the "Standard Adjudicatory Rules of Practice and Procedure", 801 CMR 1.00.

APA means ~~American Podiatry Association~~

APMA means American Podiatric Medical Association.

Board means the Board of Registration in Podiatry, established by M.G.L. c. 13, § 12A.

CME means continuing medical education.

Health Care Facility means a hospital or other institution of the Commonwealth, or of a county or of a municipality within it, and a hospital or clinic duly licensed or approved by the Department of Public Health.

License means a certificate of registration which the Board issues to a person pursuant to the requirements of M.G.L. c. 112, § 16, and which authorizes the person to engage in the

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practice of podiatric medicine. There are four categories of license: full, ~~inactive~~, limited and temporary. A full license entitles a licensee to practice podiatric medicine as an independent practitioner free from specific limitations in his or her practice except as otherwise provided by law. Any other category of license limits a licensee's practice according to the provisions of M.G.L. c. 112, §§16A, 16B and 16C.

Practice of Podiatry means the following conduct: ~~the purpose or reasonably foreseeable effect of which is to encourage the reliance of another person upon an individual's knowledge or skill in the maintenance of human podiatric health by the prevention, alleviation or cure of disorders, injuries or disease of the human foot and ankle and involving, or reasonably thought to involve, an assumption of responsibility for the other person's podiatric well-being; diagnosis, treatment of the structures of the human foot by medical, mechanical, surgical, manipulative and electrical means, and the prescription and administration of drugs for the relief of podiatric disease or adverse physical podiatric conditions.~~ **The scope of practice of podiatry includes resections of the foot; as well as surgical procedures involving the ankle joint. In the course of treating the human foot or ankle, a registered podiatrist may perform an Achilles tendon lengthening and he or she may also perform tendon transfers that require incisions into the lower leg. The scope of practice of podiatry includes the diagnosis of systemic diseases.**

Short Definition of Podiatry. ~~Podiatric Medicine and Surgery is that profession of the health science which deals with the examination, diagnosis, treatment and prevention of diseases, conditions and malfunctions affecting the human foot and its related or governing structures by employment of medical, surgical or other means.~~

2.03: Availability of Forms

The Board will make available upon request any forms prepared in accordance with 249 CMR 2.00. Only those forms authorized by the Board shall be submitted. **Forms approved and recommended by the Board for the documentation of podiatry services rendered will be made available to each licensee for use in documenting podiatry care.**

2.04: Computation of Time

Any period of time specified in 249 CMR 2.00 includes every calendar day, whether or not the office of the Board is open that day, except that, when the last day of the period falls on a day when the Board's office is closed, the period ends instead on the next day on which the office is open.

2.05: Submission of Papers and Documents

If an individual submits both an original document and photocopy of it to the Board, the Board will return the original. The Board will accept an affidavit in lieu of original documents only in extraordinary circumstances and only in the Board's discretion. A person who wishes to submit an original document or photocopy written in a foreign language must also submit a notarized translation into English of the documents or copy prepared by a translation service approved by the Board.

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~~2.06: Conduct During an Examination~~

~~An applicant may not communicate with another applicant or person while an examination is in progress. An applicant who causes a disturbance during an examination is disqualified and the chief examiner will require a disqualified applicant to leave the examination room.~~

~~2.06 Public Records and Personal Data~~

~~Documentary information obtained by the Board concerning a licensee is either a public record, as defined by M.G.L. c. 4, § 7, cl. 26, or personal data, as defined by M.G.L. c. 66A. The Board may not disclose personal data unless disclosure is authorized by statute or otherwise in accordance with M.G.L. c. 66A, § 5, cl. 2(c).~~

~~(1) Documentary information which is public record includes the following: A licensee's name, business address, license number, educational and professional training, and experience.~~

~~(2) Documentary information that is personal data includes the following: A licensee's age, marital status and race or other similar personal details.~~

REGULATORY AUTHORITY

249 CMR 2.00: M.G.L. c. 112, §§16, 17A, 19 and 61 through 65.

249 CMR 3.00: APPLICATION AND LICENSURE

Section

3.01: Forms and Requirements for Licensure ~~Methods of Obtaining a License~~

3.02: Denial of Licensure ~~Procedure for Issuing a Full License~~

3.03: Fees ~~Full Licensure by Examination~~

3.04: Requirements for Renewal of a License ~~Full Licensure by Reciprocity~~

3.05: Continuing Medical Education (CME) ~~Limited Licensure~~

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3.01: Forms of and Requirements for Licensure

(1) Licensure by examination

(a) An applicant must submit a completed application to the Board. An application shall include verification of graduation from an approved college of podiatric medicine and the original results of the applicant's National Board Examination.

(b) An applicant shall present to the Board satisfactory proof that he or she has served and satisfactorily completed a residency in a duly-licensed clinic, hospital, institution, facility or program approved by the Board. In lieu of a residency, the Board will accept a preceptorship program if the following conditions are satisfied:

(i) The Board has reviewed and approved the preceptorship program.

(ii) The applicant may be required to submit a log of duties and responsibilities, including surgical cases, general work and educational courses, during the preceptorship.

(c) The applicant must submit three (3) original letters attesting to the applicant's good moral character from individuals who have known the applicant for at least ten (10) years. None of these individuals may be a relative of the applicant.

(d) The applicant must achieve a score of 75 percent or higher on the criterion-referenced parts of the National Board of Podiatric Medical Examination and the PMLexis examination.

(e) The Board may conduct ~~require applicants to appear for~~ a personal interview before a licensure application is approved.

(f) An applicant who fails the licensure examination may be re-examined, upon payment of the required fee, at a time and place designated by the Board.

(2) **Licensure by reciprocity**

The Board may issue a license to an applicant who furnishes satisfactory proof that he has the qualifications to be licensed in Massachusetts and that he has been licensed in another state for at least eight years where the requirements for registration are, in the opinion of the Board, equivalent to those of this commonwealth, provided that such state accords a like privilege to holders of certificates of registration issued in this commonwealth, that the applicant has not previously failed to pass an examination required in this commonwealth.

(3) **Limited licensure**

(a) A limited license enables a person to complete his podiatric medical training. The Board may issue a limited license to a person who has received an appointment as an intern, fellow or podiatric medical officer at a health care facility or in a training program or preceptorship approved by the Board.

(b) An applicant for a limited license must submit to the Board a completed application form and any additional information which the Board requests.

(c) If the Board determines that the applicant is qualified, it shall issue a limited license to the applicant.

(d) Limited licenses are subject to the following limitations:

(i) A limited license authorizes a limited licensee to practice podiatry only in the training or preceptorship program or at the health care facility designated on the limited license or at the facility's approved affiliates. A limited licensee may practice podiatric medicine only under the supervision of a full licensee.

(ii) A limited licensee may practice outside the health care facility designated on the license but only for the treatment of persons accepted as patients by the designated residency or preceptorship program.

(4) Temporary Licensure

(a) The Board may issue a temporary license to a podiatric physician licensed in another jurisdiction for a period in the following circumstances:

(i) to a podiatrist licensed in another jurisdiction who has a temporary faculty appointment certified by the chairman of the board of registration in podiatry for purposes of podiatric medical education. Such temporary licensure shall terminate automatically upon termination of the faculty appointment and, in any event, at the end of eight months from the date of issue.

(ii) to permit a podiatrist licensed in another jurisdiction to act as a substitute podiatric physician for a registered podiatric physician in the commonwealth. A temporary license requested for this purpose shall be granted only upon the written request of said registered podiatric physician and to be limited to three months or less.

(iii) to a podiatric physician eligible for examination or registration in the commonwealth who is a diplomate of a specialty board approved by the American Podiatry Association to permit him to act as a substitute podiatric physician for a registered podiatric physician in the commonwealth. . A temporary license requested for this purpose shall be granted only upon written request of said registered podiatric physician and shall be limited to the specialty to which the applicant is certified and to a duration of three months or less.

3.01: Methods of Obtaining a Full License

~~(1) By examination.~~

~~(2) By reciprocity of licensure issued by another jurisdiction.~~

3.02: Denial of Licensure

The Board may deny an application for a license if it determines that the applicant is not qualified for licensure.

3.02: Procedure for Issuing a Full License

The procedure for issuing a full license is as follows:

- ~~(1) An applicant submits to the Board a completed application form and any additional information which the Board requests.~~
- ~~(2) If the Board determines that the applicant is qualified, it shall issue a license to him.~~

3.03: Fees

- (1) The Commissioner of Administration and Finance has set a fee schedule, which may be revised from time to time, for all documents processed by the Board.**
- (2) If an applicant submits an application which is processed by the Board and the applicant subsequently withdraws the application, the application fee is forfeited. In addition, any applicant failing to appear for a scheduled examination forfeits the application fee.**

3.03: Full Licensure by Examination

- ~~(1) The procedure for becoming licensed by examination in Massachusetts is the following:~~

~~(a) An applicant submits a completed application to the Board not later than 30 days prior to the clinical examination. A completed application shall include verification of graduation from an approved college of podiatric medicine and the original results of the applicant's National Board Examination in order to participate in the clinical licensure examination.~~

~~(b) If the applicant completes and receives a passing grade with a general average of 75 percentile or higher in each graded segment of the clinical examination, the applicant has passed the licensure examination.~~

~~(c) The Board shall notify the applicant in writing whether he has passed or failed his examination. The Board will not give prior verbal notification of a grade to an applicant or any other person.~~

~~(d) The applicant shall present to the Board satisfactory proof that she has served and satisfactorily completed residency in a duly licensed clinic, hospital, institution, facility or program approved by the Board. 249 CMR 3.03(1)(d) shall apply only to graduates of approved colleges of podiatric medicine who receive their degrees after January 1, 1987.~~

~~1. In lieu of a residency, the Board will accept a preceptorship program if the following conditions are satisfied:~~

~~a. The preceptorship must be sponsored by one of the podiatric medical colleges.~~

~~b. The Board reserves the right to approve the contract for the preceptorship.~~

~~c. The applicant must submit a log of duties and responsibilities, including surgical cases, general work and educational courses, during the preceptorship.~~

~~This preceptorship program will remain in effect for three years, and shall be reviewed by the Board in December 1988.~~

- ~~(2) Re-examinations. An applicant who fails the clinical licensure examination shall be entitled to be re-examined, upon payment of the required fee, at a time and place designated by the Board.~~

3.04: Requirements for a Renewal of a License

(1) Pursuant to M.G.L. c. 112, § 16, a licensee must annually renew a license obtained by examination or reciprocity. In order to renew a license the following requirements must be met:

- (a) A licensee must submit to the Board a completed renewal application form and the proper fee prior to the renewal date.
- (b) A licensee must provide proof of fulfillment of his or her continuing podiatric medical education requirement as described in 249 CMR 3.05 or obtain a waiver from the Board pursuant to 249 CMR 3.05(1).

(2) If a licensee fails to renew a license, the license automatically. Failure to renew prohibits the licensee from practicing podiatric medicine until he or she has completed the renewal requirements

3.04: Full Licensure by Reciprocity

~~The Board may issue a license to an applicant who furnishes satisfactory proof that she has the qualifications to be examined in Massachusetts and that she has been licensed in another state for at least five years where the requirements for registration are, in the opinion of the Board, equivalent to those of this Commonwealth.~~

3.05: Continuing Medical Education (CME)

(1) Each licensee shall present satisfactory evidence to the Board that in the previous two years he or she attended an educational conference(s) or program(s) approved by the Board for not less than 30 CME credits: provided however, that the Board may exempt from this requirement licensees who submit satisfactory proof that they were unable to attend an educational conference or program because of illness or other good cause. Requests for a waiver of the CME requirement due to special circumstances must be submitted in writing and directed to the Secretary of the Board. Only CME credits which have specifically been approved by the Board may be used to meet this requirement. Approval by the APMA, Council of Podiatric Medical Education or any other organization shall not serve as a substitute for approval by the Board.

(2) Any teaching organization or institute seeking CME approval from the Board shall submit a written request to the Secretary of the Board and shall provide a detailed course description. Additional information may be requested at the Board's discretion.

(3) Audit and Sanctions for Noncompliance:

- (a) Each licensee at the time of license renewal shall sign a statement, under penalty of perjury, that he or she has or has complied with the continuing education requirements set by the Board.
- (b) The Board shall audit once each year a random sample licensees who have reported compliance with the continuing education requirement. Those licensees selected for audit shall be required to document their compliance with the continuing education requirements of 249 CMR 3.05 on a form provided by the Board.
- (c) Any licensee who is found to have not completed the required number of hours of approved continuing education will be required to make up any deficiency during

the next renewal period. Such licensees shall document to the Board the completion of any deficient hours identified by audit. Any licensee who fails to obtain the deficient hours, in addition to the hours required for the current renewal period, shall be ineligible for renewal of his license to practice podiatric medicine until such time as all the required hours of continuing education are completed and documented to the Board.

3.05: Limited Licensure

~~(1) A limited license enables a person to complete her podiatric medical training. The Board issues a limited license to a person who has received an appointment as an intern, fellow or podiatric medical officer at a health care facility or in a training program or preceptorship under 249 CMR 3.03(1)(d)1. approved by the Board.~~

~~(2) The procedure for issuing a limited license is the following:~~

~~(a) An applicant submits to the Board a completed application form and any additional information which the Board requests. In the case of a preceptorship, regulations 249 CMR 3.03(1)(d)1. shall be complied with.~~

~~(b) If the Board determines that the applicant is qualified, it shall issue a limited license to the applicant.~~

~~(3) The following provisions govern a limited license:~~

~~(a) A limited license authorizes a limited licensee to practice podiatric medicine only in the training or preceptorship program or at the health care facility designated on the limited license or at the facility's approved affiliates. A limited licensee may practice podiatric medicine only under the supervision of a full licensee.~~

~~(b) A limited licensee may practice outside the health care facility designated on the license, but only for the treatment of persons accepted by the designated health care facility as patients and only under the supervision of one of the designated health care facilities.~~

3.06: Temporary Licensure and Inactive Status

~~Pursuant to M.G.L. c. 112, § 16C, the Board may issue a temporary license to a podiatric physician licensed in another jurisdiction for a period not exceeding eight months.~~

~~An applicant who otherwise satisfies all licensure requirements, but does not have an established practice location in the Commonwealth of Massachusetts, shall be issued an inactive status license until the Board is provided with said practice location address, pursuant to M.G.L. c. 112, § 16. A licensee with inactive status must fulfill continuing education requirements and pay a yearly \$15.00 fee.~~

3.07: Application Provisions

~~(1) Licensure Application Forms. The Board's licensure application forms, with the exception of its application form for re-examination and its renewal application form and other exceptions specifically noted, will include the following information:~~

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~~(a) The applicant's name, date of birth and home and principal business addresses.~~

~~(b) A verification of the fact that the applicant has completed a four-year course in podiatric medicine and holds a Doctor in Podiatric Medicine degree, written on the official stationery of the college or university and signed by the dean or other appropriate official. If the school has an official seal, the written verification must be stamped with it. This requirement does not apply to applications for a temporary license.~~

~~(c) A written verification of the applicant's attendance by month, day and year at a podiatric medical school, signed by the dean or other appropriate official. If the school has an official seal, the written verification must be stamped with it.~~

~~(2) Additional Information Required to be Submitted:~~

~~(a) A photograph of the applicant, which must be a likeness adequate for positive identification.~~

~~(b) Three written statements asserting that the applicant is of good moral character. The statement should be executed by those other than relatives who know the applicant well and for a substantial period of time. The Board especially seeks statements from licensed podiatric physicians.~~

~~(c) A written statement explaining the applicant's involvement in any civil litigation related to the profession of podiatric medicine and any criminal litigation.~~

~~(d) A description of the applicant's clinical training and experience, particularly hospital internship and residency.~~

~~(e) A written statement of the other jurisdictions in which the applicant is or has been licensed to practice podiatric medicine.~~

~~(f) A written statement of any professional disciplinary action to which the applicant has been subjected. This statement must include action taken by government agencies, professional societies, health care providers and third party carriers against the applicant.~~

~~(g) A written statement of the results of any podiatric medical licensure examination the applicant has taken.~~

~~(h) A written statement concerning the applicant's physical qualifications to possess or dispense controlled substances.~~

~~(i) A written statement concerning the applicant's physical and mental health, including an explanation of any dysfunction.~~

~~(3) Application Form for Re-examination. The Board's renewal application form for re-examination consists of the original application updated on a form provided by the Board.~~

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~~(4) Renewal Application Form. The Board's renewal application form will include the following information:~~

- ~~(a) The applicant's name, date of birth and home and principal business addresses.~~
- ~~(b) For statistical purposes, personal characteristics of the applicant such as sex and race.~~
- ~~(c) A statement of the applicant's podiatric medical training and work experience.~~
- ~~(d) A written statement of any professional disciplinary action to which the application has been subjected. This statement must include action taken by government agencies, professional societies, health care providers and third party carriers against the applicant.~~
- ~~(e) A statement concerning any civil proceedings resulting in settlements or findings against you, and any criminal actions commenced against you within the last year.~~
- ~~(f) A statement describing an applicant's present ability to possess or dispense controlled substances.~~
- ~~(g) A statement of other jurisdictions in which the applicant is licensed to practice podiatric medicine.~~

~~(5) Application Form for a Limited License. The application must be accompanied by a written statement certifying that the applicant has received an appointment at a health care facility, or an approved training program. This statement must be signed by the superintendent or administrator of the health care facility or approved training program.~~

~~(6) Completed Application Forms.~~

- ~~(a) The Board considers an application complete only if it meets the following requirements:~~
 - ~~1. It is typewritten or written in a legible manner.~~
 - ~~2. All date, information and signatures requested are supplied as specified.~~
 - ~~3. The proper fee is submitted.~~
 - ~~4. The applicant has submitted any additional material Board has requested.~~
- ~~(b) The Board will return any incomplete application to an applicant. It is the applicant's responsibility to resubmit the application when it is complete.~~

3.08: Denial of Licensure

~~(1) The Board may deny a license by reciprocity or a limited license if it determines that the applicant is not qualified for licensure.~~

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~~(2) The Board may deny a license by examination after an adjudicatory hearing and upon a determination that the applicant is unqualified because of moral turpitude, physical or mental dysfunction or acts which, if engaged in by a licensee, would violate M.G.L. c. 112, §§ 18 and 19. An adjudicatory hearing which the Board holds under 249 CMR 3.08 is governed by the provisions of 801 CMR 1.00: Standard Adjudicatory Rules of Practice and Procedures.~~

3.09: General Provisions for Fees

~~(1) The Board will accept a fee only if it is in the form of a check or money order and is payable to the Commonwealth of Massachusetts in the required amount.~~

~~The Commissioner of Administration and Finance has set a fee schedule, which he may revise from time to time, for all documents processed by the Board. Fees are contained in 801 CMR 4.00: Rates and Fees.~~

~~(2) If an applicant submits an application, the Board processes it and the applicant withdraws the application, the applicant forfeits the application fee. In addition, any applicant failing to appear for a scheduled examination forfeits the application fee.~~

3.10: Requirements for a Renewal of a Full License

~~(1) Pursuant to M.G.L. c. 112, § 16, a licensee must renew his full license annually. The following are the requirements for renewal of a full license:~~

~~(a) A licensee must submit to the Board a completed renewal application form and the proper fee prior to the renewal date.~~

~~(b) A licensee must provide proof of fulfillment of her continuing podiatric medical education requirement as defined in 249 CMR 3.11, or obtain a waiver from the Board pursuant to 249 CMR 3.11(10).~~

~~(2) If a licensee fails to renew her full license, the license is automatically revoked according to M.G.L. c. 112, and 249 CMR 3.10. Revocation for failure to renew prohibits the licensee from practicing podiatric medicine until she has completed the renewal requirements.~~

3.11: Continuing Education

~~(1) Each licensee shall present satisfactory evidence to the Board that in the previous year he attended an educational conference or program approved by the Board for not less than 25 clock hours; provided however, that the Board may exempt from this requirement those who submit satisfactory proof that they were unable to attend an educational conference or program because of illness or other good cause.~~

~~(2) It is the responsibility of the individual licensee that courses he takes meet the Board's criteria for acceptability.~~

~~(3) The following programs, provided that they meet the requirements of 249 CMR 3.11(4), are acceptable for continuing education credit subject to any Board review:~~

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~~(a) Programs which are approved by the Massachusetts Podiatric Medical Society or the American Podiatric Medical Association, and Region One of the American Podiatric Medical Association.~~

~~(b) Programs offered by approved colleges or schools of podiatric medicine, medicine and osteopathic medicine.~~

~~(c) Programs offered by other individuals, organizations and institutions approved by the Board pursuant to 249 CMR 3.11(4) and (5).~~

~~(4) Continuing Education shall be as follows:~~

~~(a) Individuals, organizations or institutions seeking approval by the Board for continuing education courses or programs under 249 CMR 3.11 shall apply for such approval on a form provided by the Board. Those individuals, organizations or institutions approved under 249 CMR 3.11 need not apply to the Board for approval, but need only to comply with the other provisions pertaining to approved continuing education providers including 249 CMR 3.11.~~

~~(b) Those individuals, organizations and institutions applying for approval of the Board of a course or program offerings under 249 CMR 3.11 shall submit such documents and other evidence as may be needed by the Board to determine compliance with the criteria set forth in 249 CMR 3.11(4)(c) including, but limited to, catalogues, course descriptions, curricula plans and bulletins.~~

~~(c) Those courses or programs referred to in 249 CMR 3.11 shall meet the following criteria in order to be approved by the Board:~~

~~1. Faculty. The course or program organizer(s) shall have a faculty appointment in a public university or state college, or in a private postsecondary educational institution. The Board may, at its discretion, accept other qualified faculty to fulfill the requirements of this section. The appointment may be in disciplines other than medicine but directly related to the practice of podiatric medicine or medicine. The curriculum vitae of all faculty members and all other organizers shall be kept on file.~~

~~2. Rationale. The need for the course and how the need was determined shall be clearly stated.~~

~~3. Educational Objectives. Each course or program shall clearly state educational objectives that can be realistically accomplished within the framework of the course.~~

~~4. Method of Instruction. Teaching methods for each course or program shall be described, e.g., lecture, seminar, audio/video stimulation, etc.~~

~~5. Attendance. Course organizers shall maintain a record of attendance for each participant.~~

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~~6. In addition to any other requirements for approval, all approved individual, organizations, institutions and other continuing education providers listed in 249 CMR 3.11 with the exception of residency programs and clinical fellowships, may:~~

~~(a) Utilize a survey at least annually of the podiatric medical community in order to determine those areas of clinical practice in which there is the greatest need in terms of demonstrated and expressed needs for additional information and instruction directly relevant to quality patient care and developments in the practice of podiatric medicine; and~~

~~(b) Provide a self-assessment evaluation in an objective format for each participant which pertains to the course content of the particular continuing education program. The evaluations may be reviewed by the program providers to measure educational needs and to determine whether the objectives of the program have been met, and may be made available to each participant for her review. Evaluations shall not be submitted to the Board.~~

~~(6) Withdrawal of Approval; Appeal Procedure~~

~~(a) Any individual, organization, institution or other continuing education provider approved by the Board under 249 CMR 3.11 may have its approval withdrawn by the Board for failure to comply with the provisions of 249 CMR 3.00.~~

~~(b) Any provider who is denied approval by the Board as a continuing education provider or any continuing education provider whose approval is withdrawn by the Board, or any doctor of podiatric medicine who is denied credit for continuing education coursework or whose license to practice podiatric medicine is not renewed after failure to comply with 249 CMR 3.00 may appeal such denial, withdrawal or suspension to the Board. The Board in its discretion may consider such an appeal with or without a hearing.~~

~~(7) Cardio pulmonary Resuscitation Training Required. As part of the continuing education required by law of each licensee, in addition to the coursework required by 249 CMR 3.00, each doctor of podiatric medicine, at the time of license renewal, shall certify that he possesses a current and valid certification in basic cardiopulmonary resuscitation (CPR).~~

~~(8) Audit and Sanctions for Noncompliance.~~

~~(a) Each doctor of podiatric medicine at the time of license renewal shall sign a statement, under penalty of perjury, that she has or has not complied with the continuing education requirements set by the Board.~~

~~(b) The Board shall audit once each year a random sample of doctors of podiatric medicine who have reported compliance with the continuing education requirement. No doctor of podiatric medicine shall be subject to audit more than once every two years. Those licensees selected for audit shall be required to~~

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~~document their compliance with the continuing education requirements of 249 CMR 3.11 on a form provided by the Board.~~

~~(c) Any doctor of podiatric medicine who is found not to have completed the required number of hours of approved continuing education will be required to make up any deficiency during the next renewal period. Such licensees shall document to the Board the completion of any deficient hours identified by audit. Any doctor of podiatric medicine who fails to make up the deficient hours, in addition to the hours required for the current renewal period, shall be ineligible for renewal of his license to practice podiatric medicine until such time as all the required hours of continuing education are completed and documented to the Board.~~

~~(9) Credit for Teaching. The intent of the continuing education requirements may be satisfied at the discretion of the Board by teaching or otherwise presenting a course or program offered by an approved continuing education provider.~~

~~(10) Waiver of Requirement.~~

~~(a) The Board in its discretion, and in accordance with M.G.L. c. 112, § 16, may exempt for the continuing education requirement any licensee who for reasons of retirement, health, military service, or undue hardship cannot meet those requirements. Applications for waiver shall be submitted on a provided form to the Board for its consideration.~~

~~(b) Any licensee who submits an application for waiver which is denied by the Board, shall be ineligible for renewal of his license to practice podiatric medicine.~~

~~(c) Any newly licensed doctor of podiatric medicine who is licensed for less than six months of the year shall be automatically exempt from the continuing education requirement for that year.~~

REGULATORY AUTHORITY

249 CMR 3.00: M.G.L. c. 112, §§ 16, 17A, 19 and 61 through 65.

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249 CMR 4.00: PRACTICE OF PODIATRIC MEDICINE

Section

4.01: Role of the Podiatrist

4.02: Drug Dispensing and Prescribing

4.03: Practice of Podiatric Medicine by Podiatric Medical Students

4.04: **The Podiatric Medical Record** ~~Hospital Privileges~~

4.05: **Documentation Guidelines and Medical Necessity** ~~Discrimination Against Recipients of Public Assistance Prohibited~~

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4.01: Role of the Podiatrist

In the provision of podiatric care, the podiatrist examines, diagnoses and treats or prescribes course of treatment for patients with disorders, diseases or injuries of the foot **and ankle**; interviews patients and writes case histories to determine previous ailments, complaints and areas of investigation; examines footwear to determine proper fit, evidence of proper gait, and corrective care or treatment required; conducts complete physical examinations of the foot **and ankle**, including tissue, bone and muscular structure with emphasis on the relationship to diabetes, peripheral vascular disease and pathomechanical disease; **make systemic as well as lower extremity diagnoses; conducts physical examination of any and all other areas of the body evidencing symptoms or conditions potentially contributing to disorders, diseases, injuries or symptoms of the foot**; supplements examination by ordering or performing various laboratory tests, analyses and diagnostic procedures, including X-rays ~~in consultation with the chief of the service of the health care facility, or with an individual with clinical privileges designated by him,~~ **which may be taken by the podiatry assistant under the registered podiatrist's supervision**; interprets laboratory results and evaluates examination findings; refers patients to, or consults with, physicians for further case diagnoses or treatment; administers treatment to eliminate lesions, infections, contagious diseases affecting the foot **and ankle and other symptomatic conditions of the foot and ankle causing pain or affecting ambulation**; performs appropriate therapeutic surgical procedures; prescribes appropriate medication; instructs nurses and other assistants in treatment and care of patients; prescribes and supervises construction and maintenance of orthotic foot devices and fabricates special appliances to foot or in footwear to meet the needs of individual patients; applies appliances to foot or in footwear; initiates other podiatric procedures or services and advises patients on proper care of feet and nail prophylaxis; reviews and studies case history and progress of patient; consults with surgeons and residents in establishing a therapeutic program for the patient; records data or case history on medical records; and advises on kind and quality of podiatric medical supplies and equipment required.

4.02: Drug Dispensing and Prescribing

In accordance with M.G.L. c. 94C, a podiatrist has the same rights in **possessing, administering**, dispensing and prescribing drugs as other practitioners, ~~provided he is acting within the limitations imposed by MGL c. 112, § 13~~ and may **prescribe, dispense and administer all reasonable controlled substances which shall include but not be limited to all prescription drugs and controlled substances**; or he ~~or she~~ may cause the same to be administered under his ~~or her~~ direction by a nurse.

4.03: Practice of Podiatric Medicine by Podiatric Medical Students

(1) A ~~full license~~ **licensee** may permit a podiatric medical student to practice podiatric medicine subject to the provisions of M.G.L. c. 112, § 16A and B. The ~~full~~ licensee's supervision of the podiatric medical student's activities must ~~meet~~ **include** the following requirements:

- (a) ~~He requires~~ The podiatric medical student **must** ~~to~~ be identified to a patient ~~visibly~~ as a podiatric medical student and ~~to inform~~ each patient must be informed that the patient has a right to refuse examination or treatment by the podiatric medical student.
- (b) **The licensee must** ~~He~~ assures that the podiatric medical student practices podiatric medicine in accordance with acceptable podiatric medical standards of care.

(2) ~~A licensee who violates M.G.L. c. 94C also violates 249 CMR 4.00.~~ Only ~~full~~ licensees and the other individuals mentioned in M.G.L. c. 94C may issue and sign for controlled substances when acting within the scope of their license.

4.04: The Podiatric Medical Record

The purpose of the podiatric medical record is to provide information to aid the registered podiatrist in the treatment of his patient. The licensee's medical record is not written for the purpose of third party payment review and should not be relied upon as a basis for a third party payor's denial of payment or as a basis for a third party payor's determinations regarding the medical necessity of services rendered. The record shall contain a record of significant treatment provided and findings made by the podiatrist.

Should a third party payor require information regarding a patient's podiatric past or present needs beyond what is found in the medical record, the licensee may provide a brief written summary regarding that patient within forty-five (45) days of receiving that request in writing from the third party payor provided that no third party payor request more than twelve (12) summaries in any one calendar year.

The licensee shall not be held responsible for the maintenance of any patient record(s) at a nursing home facility, hospital or any other location other than his own office.

4.04: Hospital Privileges

~~A licensee shall notify the Board of any restriction or termination of his hospital privileges, even restrictions or terminations for minor administrative reasons, within thirty days of its occurrence.~~

4.05: Documentation Guidelines and Medical Necessity

(a) The Board shall set standards for the documentation of podiatric medical care and may make suggested documentation forms available to licensees. Documentation should be limited to that necessary for appropriate patient care in order to maximize the podiatrist's opportunity to provide direct patient care.

(b) A registered podiatrist shall determine the podiatric medical necessity of podiatric services. He or she shall follow guidelines established by the Board regarding the issue of medical necessity. The podiatric medical record shall not be the sole source of this determination but the podiatrist may also rely on other sources, including, but not limited to, records of other professionals.

4.05: Discrimination Against Recipients of Public Assistance Prohibited

~~(1) General Rule. A licensee may not discriminate against a person seeking podiatric medical service solely because the person is a recipient of public assistance. This rule prohibits a licensee from acting differently toward a recipient of public assistance in any material manner and requires a licensee to provide podiatric medical services of the same quality and in the same manner to a recipient of public assistance as he would to any other person in similar circumstances who is not a recipient of public assistance.~~

~~(2) Limitations of General Rule. A licensee may act in any of the following ways without violating 249 CMR 4.05.~~

~~(a) Impose limits upon the availability of his services in other than emergency services situations which are based upon non-discriminatory criteria, e.g., professional training and experience;~~

~~(b) Impose a limit upon the availability of her services in other than emergency services situations which requires a person seeking her services to present reasonable evidence of the person's ability to pay for services rendered prior to their rendition;~~

~~(c) Withdraw from or decline to participate in the Commonwealth's medical care and assistance program established by M.G.L. c. 118E commonly known as "Medicaid";
or~~

~~(d) Only in the case of a licensee who is not a 'provider' within the meaning of M.G.L. c. 118E, require personal payment of his usual charge for services by a person who is a beneficiary of the Commonwealth's medical care and assistance program after he has informed the person in a manner which the person understands that:~~

- ~~1. he is not a 'provider' within the meaning of the laws regulating the Commonwealth's medical care and assistance program;~~
- ~~2. if the person nonetheless requests that he provide podiatric medical services he will require the person to pay directly his usual charge for the services;~~
- ~~3. other podiatrists who are 'providers' and would not charge the person directly are available; and~~
- ~~4. he states that, upon request, he will attempt to make a referral to a 'provider' podiatrist.~~

4.06: Proper Foot Care in a Skilled Nursing Home Facility

(1) **Independent practice in nursing home.** A podiatrist attending patients in a skilled nursing home facility acts independently and is not under the supervision or control of any person employed by or practicing nursing or medicine at the nursing home facility. A licensed podiatrist is not required to obtain the approval or authorization of another physician or any other person before providing podiatry services in a skilled nursing home except from the patient or the patient's guardian who may request or refuse a podiatrist's services at any time. The direction and performance of a patient's podiatric care shall not fall within the purview of the nursing or medical staff at any level of the nursing home facility.

(2) **Patient evaluation.** A patient evaluation and management service, with treatment plan, detailing the type of care as well as its frequency, should be prescribed exclusively by the attending podiatrist. This is particularly appropriate for patients who will be receiving palliative foot care on a regular basis. [Board Form PD 1102 is approved and recommended for this service.] A reevaluation should be performed and treatment plan prescribed by the attending podiatrist approximately every twelve (12) months or however often it is deemed necessary by the attending podiatrist for patients who receive palliative care.

(3) Documentation of palliation (trimming of nail, and calvi) as well as treatment for onychomycosis, onychogryphosis and onychauxia should be minimized so as to allow the podiatrist the maximum opportunity to provide direct patient care. [Board Form PD1101 is approved and recommended for these services.]

(4) A patient who demonstrates any level of vascular insufficiency diagnosed by the attending podiatrist shall receive palliative foot care approximately every sixty-(60) days or however frequently the attending podiatrist deems that this service may be medically necessary. The podiatrist is the arbiter of podiatric medical necessity.

(5) A patient evaluation should be performed and treatment plan prescribed by the attending podiatrist at least every twelve months or more often if necessary. [Board Form PD1102 is approved and recommended for this evaluation and management service.]

4.06: Provision of Podiatric Medical Services in Emergencies

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~~(1) General Rule. A licensee shall render podiatric medical services to a person experiencing a podiatric medical emergency. A podiatric medical emergency is a set of circumstances which immediately threatens a person's life or is likely to cause serious injury absent the provision of immediate professional assistance. A licensee shall assure that a person who is referred to him by another licensee for the purpose of securing podiatric medical services of an emergency nature is experiencing a podiatric medical emergency.~~

~~(2) Limitations of General Rule~~

~~(a) A licensee whose professional training or experience is insufficient to enable him to provide podiatric medical services of adequate quality to a person experiencing a podiatric medical emergency is excused from complying with the requirements of 249 CMR 4.06(1). However, he must provide reasonable attempt to secure competent podiatric medical services for the person.~~

~~(b) A licensee whose professional training or experience, while not insufficient to enable him to provide podiatric medical services of adequate quality, is not as appropriate as that of another licensee or other competent source of assistance known to him, may refer a person experiencing a podiatric medical emergency to such an alternative source of services if, in the exercise of reasonable professional judgment, doing so would be in the person's best interest and he established through verbal communication with the source of services that the person will be seen promptly.~~

~~(3) Refusal to Provide Podiatric Medical Services. A licensee may not refuse to provide podiatric medical services in the ordinary course of his practice to a person experiencing a podiatric medical emergency because the person is unable to pay for the services.~~

4.07: Licensee's Office

~~A licensee shall conduct his practice only in quarters which are his professional office or offices and shall not conduct his practice in conjunction with any other business or profession, or permit to be conducted in his office or offices the carrying on of business or profession.~~

4.07: Initial Patient History and Examination

(1) A registered podiatrist shall perform any and all patient examinations, including complete examinations, that are necessary for the effective identification and treatment of disorders, diseases, injuries or symptoms of the foot and ankle. Complete examinations, which are often necessary for the identification and assessment of systemic and localized conditions contributing to or causing disorders, diseases, injuries or symptoms of the foot and ankle, may encompass the evaluation of all organ systems or body parts.

(2) A registered podiatrist shall order the performance of any test or study necessary to establish a proper diagnosis. The level and comprehensiveness of the examination performed shall be determined by the attending podiatrist.

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~~(1) The primary podiatric care provider's initial patient history and physical examination should be such that it provides a comprehensive data base sufficient to identify not only podiatric medical problems, but also general medical problems for possible referral to appropriate medical specialists for concurrent care. The data should include the following:~~

~~(a) Diagnostic. Identification information, entrance complaint, history, vascular examination, orthopedic examination, neurologic examination, dermatologic examination and musculoskeletal examination;~~

~~(b) Therapeutic. Either correction of the podiatric disorders or referral to appropriate physicians for correction of other abnormalities;~~

~~(c) Supplemental Procedures Consistent with the Diagnosis which may Include:~~

- ~~1. X-Ray~~
- ~~2. Biomechanical Evaluation~~
- ~~3. Oscillometric Index~~
- ~~4. Plethysmographic Studies~~
- ~~5. Immunologic Testing for Allergies~~
- ~~6. Steroid Infusion for Entrapment~~
- ~~7. Culture and Sensitivity Exudate~~
- ~~8. D.T.M. Tests~~
- ~~9. R.A. Tests~~
- ~~10. Electromyographic Studies (Nerve Conduction)~~
- ~~11. Polarized Light Study (Joint Serum)~~
- ~~12. Skin Temperature Study (Thermocouple, Skin Tonometry)~~
- ~~13. Thermograph~~
- ~~14. Hermatologic, Mycologic and Urine Tests~~

~~(d) For Established Patient: Examination, Evaluation and/or Treatment of Diagnosed Illness:~~

- ~~1. Indication of Treatment. The examination is to supplement the diagnostic studies or therapeutic procedures indicated by the findings of the initial visit.~~
- ~~2. Procedures Usually Performed or Provided. The diagnostic studies and therapy are those indicated by the specific illness or condition of the patient.~~
- ~~3. Frequency and Duration of Treatment. The frequency and visits and the duration of therapy are determined by the circumstances and conditions for which the patient is being treated; and~~

~~(e) Laboratory Services. Those ordered or performed by the podiatrist.~~

4.08: General Anesthesia

A licensee may perform surgery or treatment as set forth in M.G.L. c. 112, § 13 upon the human foot and ankle of a patient who is under anesthesia, which is not-local provided that the anesthetic is administered by or under the direction of a qualified anesthesiologist.

4.09: Nitrous-Oxide-Oxygen Analgesia

A ~~full~~ licensee may employ nitrous-oxide-oxygen analgesia in the practice of podiatric medicine provided, however, that the quantity of nitrous-oxide-oxygen administered does not produce loss of consciousness of the patient.

4.10: Acceptable Standards of Care

The Board shall determine standards of care for the delivery of podiatry through policy statements, which shall be made available to licensees.

~~The following standards of care shall be considered by the Board when reviewing consumer complaints:~~

~~(1) Physiotherapy:~~

- ~~(a) The application of physical therapy modalities is considered to be indicated and effective when applied two to three times per week for a maximum of 20 treatments unless otherwise medically indicated. All modalities should be specifically identified.~~
- ~~(b) Treatment for any given condition should be evaluated at 60-day intervals.~~
- ~~(c) An office visit solely for the purpose of the application of physiotherapy should be the only consideration for renumeration for that service.~~

~~(2) X-Ray~~

- ~~(a) Bilateral (comparative) radiographs for a presenting unilateral condition must have justifiable documentation in the record.~~
- ~~(b) Polaroid and standard radiographs of the same condition or field of study are contra-indicated, unless required by an emergency.~~
- ~~(c) Pre and post-operative radiographs which identify preoperative pathology and post-operative results are indicated.~~

~~(3) Unna Boot.~~

- ~~(a) An Unna Boot is considered to be indicated and effective in the management of varicose ulcers, stasis dermatitis, cellulitis, sprains, fractures and neurodermatitis.~~
- ~~(b) Treatment for any given condition should be evaluated at 60-day intervals.~~

~~(4) Clinical Laboratory Tests. Tests should be ordered which are appropriate to and based upon clinical criteria, except for the following laboratory tests which are considered routine:~~

- ~~(a) CBC/Hematorcrit/FBS/Urine Analysis/Uric Acid/PT/PTT pre-operative purposes.~~
- ~~(b) Culture and Sensitivity Tests.~~

~~(c) Fungus Cultures.~~

~~(5) Plethysmography. Plethysmographic studies (with approved devices) are indicated when there is a history and/or clinical sign(s) of peripheral vascular disease.~~

~~(6) Post-operative Periods. The following procedures as a general rule have an after-care period of six weeks with additional allowances for documented post-operative complication:~~

~~Onychocryptosis
Digital osteochondroma/sub-ungual exostosis
Soft tissue neoplasms (benign)
Neuroma
Sesamoidectomy
Aseptic necrosis
Tailor's bunion
Hypertrophy of metatarsal condyle/arthoplasty/osteotomy
Capsulotomy/tenoplasty/tenotomy/capsulorrhaphy
Accessory ossicles
Hallux valgus
Tarsal exostoses
Sprains and strains
Ulcers~~

~~The time frame for the treatment of verrucatus lesions should be based on the size of the lesion, number and intractability of the infectious process and not the number of patient encounters.~~

~~(7) Surgical Fees. The registrants are encouraged to discuss with carriers on matters relating to prevailing fees for the services provided through podiatric medical care. Renumeration for surgical procedures performed in an office setting may be computed to allow for the costs of providing surgical trays, anesthesia and of any other supplies and equipment incident to the procedure(s) performed.~~

~~(8) Nursing Home Visits. Should be computed on the basis of a maximum of 6 visits per year; more frequently as medically indicated.~~

~~(9) Onychomycosis. Treatment of mycotic nails should consider the medical reasonableness and necessity of visits for such treatments. A treatment plan is indicated. Treatment should be based upon clinical observation and a specific diagnosis established by culture or, in the absence of an obvious clinical impression, a positive culture or confirmation by microscopic examination is indicated. The infecting organism should be specifically identified whenever possible.~~

~~(a) Reduction of the nail by:~~

~~1. Mechanical Debridement. Mechanical reduction and debridement of affected tissue is indicated based on a podiatric judgment to reduce the nail plate, and the application of fungicides accompanied by orders for topical medication. Consideration should be given to subsequent visits, when indicated, to debride mycotic tissues and continue with the application of fungicides.~~

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~~2. Chemical Debridement. The application of chemicals for the destruction of the nail plate and debridement of affected tissues of the nail bed, based on a podiatric medical judgment. Follow-up visits to debride mycotic tissue and allow for the application of topical medication may be indicated.~~

~~(b) Surgical Treatment: Nail Plate ablation or excision (partial or total), without destruction of matrix.~~

~~1. Debridement of soft tissue and treatment of the surgical site at the time of ablation or excision until sufficiently healed to allow for the application of topical fungicidal agents. Subsequent visits to debride mycotic tissue and continue with the application of fungicides, based on good podiatric medical judgment, for a period of up to 12 months. Justifying reports must be initiated or documented if the treatment rendered is inconsistent with these standards.~~

~~2. Excision, with destruction of matrix. Excision of mycotic nail, nail bed and matrix to effect permanent destruction of all infected tissues.~~

~~(c) Oral antifungal agents may be used in conjunction with any of the treatment programs noted. Depending upon the infecting organism, the treatment(s) may be supplemented with ultraviolet radiation or iontophoresis. Blood studies are indicated to determine blood dyscrasias.~~

4.12: Physiotherapists and Podiatrists

~~A podiatrist duly registered by the commonwealth may refer his patients to physical therapists or may utilize the services of a physical therapist within his practice.~~

REGULATORY AUTHORITY:

249 CMR 4.00: M.G.L. c. 112, §§16, 17A, 19 and 61 through 65.

249 CMR 5.00: ETHICAL STANDARDS AND PROFESSIONAL CONDUCT

Section

5.01: Requirement to Respond to Board

5.02: Advertising and Professional Notices

5.03: Unprofessional Conduct

5.04: Gross Misconduct and Deceit

5.05: Podiatrist's Responsibility to the Patient

5.01: Requirement to Respond to Board

A licensee shall respond within 30 days to a written communication from the Board or its designee and shall make available to the Board any relevant and authorized records with respect to an inquiry or complaint about the licensee's professional conduct. The 30-day period commences on the date the Board sends the communication by registered or certified mail with return receipt requested to the licensee's last known address. **It is the responsibility of the licensee to notify the Board, in writing, of any change of his mailing address.**

5.02: Advertising and Professional Notices

(1) A licensee shall not advertise for patients in a manner that is false, deceptive or misleading.

~~(2) A licensee may advertise fixed prices, or a stated range of prices, for professional services, provided such advertisement clearly states that additional charges may be incurred for related services which may be required in individual cases.~~

(2) A licensee may advertise in electronic media, including television and radio, provided that he maintains a complete, accurate and reproducible version of the audio and visual contents of that advertising for a period of three years. The licensee must furnish the complete copy of this advertising to the Board upon request. The cost of maintaining and providing this advertising copy shall be borne by the licensee.

(3) A ~~full~~ licensee shall include in an advertisement, professional notice, or any other professional printed material, his name, business address and designation which shall be limited to the following: Professional Degree (D.P.M.), Podiatrist, Practitioner of Podiatric Medicine and Surgery, or Podiatric Physician.

(4) Advertising of group practices (including corporations, partnerships, agencies or associations) is permitted. Such advertisement shall include the name of at least one ~~full~~ licensee, the business address, and the designation as a podiatrist. A group practice shall, upon request, provide a listing of all currently licensed podiatrists in the group practice.

(5) A licensee may consult with the Board concerning any proposed advertising for its opinion and prior written approval.

5.03: Unprofessional Conduct

(1) The following acts are deemed to constitute "Unprofessional Conduct" within the meaning of M.G.L. c. 112, §§ 18 and 19:

(a) Willful or ~~grossly~~ negligent failure to comply with substantial provisions of federal, state, or local laws, rules or regulations governing the practice of Podiatric Medicine.

(b) ~~As of January 3, 1993,~~ Failure to report to the Board in writing any of the following within 30 days of the finalization of action:

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1. Disciplinary action by a state licensing board in another jurisdiction;
 2. The denial, suspension, or revocation of staff privileges, employment, or appointment in a hospital or other health care institution;
 3. Resignation from a medical staff in lieu of disciplinary action;
 4. ~~denial of the right to participate or enroll in any system whereby a third party pays all or part of a patient's bill;~~
 4. Disciplinary action taken by any governmental authority, health care facility, and/or professional medical association;
 5. Having been a criminal defendant in any criminal proceeding other than minor traffic offenses;
 6. Findings being made against the licensee in connection with a medical malpractice proceeding or settlement in a medical malpractice proceeding; and
 7. Suspension, revocation, restriction of, or surrender of a privilege to possess, dispense, or prescribe controlled substances.
- (c) Exercising undue influence on the patient by methods including the promotion of the sale of services, goods, appliances, or drugs in such manner as to exploit the patient for the financial gain of the practitioner or a third party.
- (d) Directly or indirectly offering, giving, soliciting, receiving, or agreeing to receive any fee or other consideration to or from a podiatrist or other licensed health care professional or any laboratory or other medical service of any kind for the referral of a patient in connection with the performance of podiatric services. Nothing herein shall prohibit a podiatrist from:
1. negotiating with or participating in a health maintenance organization, preferred provider organization or other health care delivery system, or in an agency established to provide patients with referrals for podiatric and other medical services; or
 2. from receiving a fee for any such participation.
- (e) Conduct in the practice of Podiatric Medicine which evidences moral unfitness to practice the profession.
- (f) **Willfully filing inaccurate or untrue statements on the licensee's registration renewal questionnaire as well as** willfully making or filing a false report, or failing to file a report required by law.
- (g) Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the podiatrist knows or has reason to know that he or is not competent to perform.
- (h) Delegating podiatric medical responsibilities to a person when the podiatrist delegating such responsibilities knows or has reason to know that such person is not qualified by training, by experience, or by licensure to perform them.
- (i) **Failure to repay student loans.**

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- ~~(i) Performing podiatric medical services which have not been duly authorized by the patient or client or his or her legal representative.~~
- ~~(j) Ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient.~~
- ~~(k) Claiming or using any secret or special method of treatment which the podiatrist refuses to divulge to the Board.~~
- ~~(l) Entering into an arrangement or agreement with a pharmacy for the compounding and/or dispensing of coded or specially marked prescriptions.~~

5.04: Gross Misconduct and Deceit

Gross misconduct and/or deceit in violation of M.G.L. c. 112, § 61 may include, but not be limited to, the following acts:

- (a) Making false statements to the Board; or any attempt to deceive, or attempt to make misrepresentations to the Board.**
- (b) Failure to provide documentation for care rendered in an facility .**
- (c) Filing documentation with third parties which is not substantiated by patient histories and/or field;**

- ~~(a) Overutilization of physical therapy, injection therapy, X-ray and Unna Boot services;~~
- ~~(b) Upgrading of primary care services (treatment of dermal exerescences and nails and upgrading diagnoses);~~
- ~~(c) Fractionalizing of surgical fees without involvement of peer review;~~
- ~~(d) Excessive utilization of diagnostic tests to support an established clinical entity;~~
- ~~(e) Inadequate supporting laboratory data for reported diagnoses;~~
- ~~(f) No documentation for care rendered in an extended care facility home and/or in office settings;~~
- ~~(g) Patient histories and field audits fail to substantiate the documentation being filed with third parties for infections, ulcerations and pathologic nail problems;~~
- ~~(h) Patient history does not show matching (complete or accurate) entries for the care rendered at any podiatric visit when compared to those reported to the vendee.~~

5.05: Podiatrist's Responsibility to the Patient

(1) A licensee shall maintain a podiatric record for each **of his or her office patient(s) only**, which is adequate to enable the licensee to provide proper diagnosis and treatment. A licensee must maintain a patient's podiatric medical record for **five (5) years from the date of the last visit provided that the patient was seen in the podiatrist's office** ~~an indefinite period from the date of the last patient encounter and in a manner which permits the former patient or a successor podiatrist access to them within the terms of these regulations.~~ **In lieu of maintaining the patient's records, the podiatrist may choose to turn over the office chart or a copy of the original chart to the patient. A registered podiatrist is not**

responsible for any patient records of any kind if the patient was not seen in the podiatrist's office.

(2) A licensee shall provide a patient or, upon patient's request, another licensee or another specifically authorized person, with the following, **provided that the entire chart or a copy of the entire chart has not already been surrendered to the patient:**

(a) A summary which includes all relevant data, of that portion of the patient's podiatric medical record which is in the licensee's possession, or a copy of that portion of the patient's entire podiatric medical record which is in the licensee's possession. It is within the licensee's discretion to determine whether to make available a summary or a copy of the entire podiatric medical record.

(b) A copy of any previously completed report required for third party reimbursement.

(3) A licensee may charge a reasonable fee for the expense of providing the material enumerated in 249 CMR 5.05(2); however, a licensee may not require prior payment of the charges for the podiatric medical services to which such material relates as a condition for making it available.

(4) The podiatrist will not subject any patient for examination or treatment for research, educational or informational purposes without the patient's written approval. **(formerly 7)**

~~(4) 249 CMR 5.05(2) does not apply if, in the reasonable exercise of her professional judgment, a licensee believes the provision of such material would adversely affect the patient's health. However, in such a case, the licensee must make the material available to another responsible person designated by the patient.~~

(5) No patient shall be treated for a new or preexisting condition without the benefit of an evaluation and management service, which shall be performed by the treating podiatrist.

~~(5) The patient should be informed as to the approximate cost of any therapeutic procedure before the procedure is instituted.~~

(6) Privacy will be afforded the patient during the podiatric medical treatment or other rendering of care within the capacity of the office or other facility to provide. **(formerly 8)**

~~(6) The podiatrist will keep complete current information concerning the diagnosis, treatment and prognosis, so that he will be able to explain in terms and language that can reasonably be expected to be understood by the patient.~~

(7) The podiatrist will obtain informed consent of the patient to the extent provided by law. **(formerly 9)**

(8) The patient may, upon request, examine and receive an explanation of his bill, including laboratory charges, pharmaceutical charges and third party credits regardless of the source of payment. **(formerly 10)**

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(9) The patient will be afforded the confidentiality of all office records and communications to the full extent provided by law. **(formerly 11)**

(10) The patient shall have all reasonable requests responded to promptly, courteously and adequately within the capacity of the podiatrist to respond. **(formerly 12)**

REGULATORY AUTHORITY: 249 CMR 5.00: M.G.L. c. 112, §§ 16, 17A, 19 and 61 through 65.

249 CMR 6.00: ADMINISTRATIVE DUTIES OF THE BOARD

Section

6.01: Approval of Health Care Facility Affiliations

~~6.02: Procedure for Approval of Health Care Facility Affiliations~~

6.02: Investigator's Duties.

6.03: Board Approval of Colleges of Podiatric Medicine

6.04: Violation of Board's Rules and Regulations

6.01: Approval of Health Care Facility Affiliations

The Board must approve by a majority vote affiliations between health care facilities and podiatric medical training programs. In order to approve an affiliation, the Board must determine, among other things, that the supervision available for training purposes is adequate.

~~6.02: Procedure for Approval of Health Care Facility Affiliation~~

~~The following is the procedure for requesting Board approval of a health care facility affiliation:~~

~~(1) The directors of the health care facilities or the health care facility and the podiatric medical training program must submit a written request to the Board.~~

~~(2) The Board will send a form to the directors requesting information, including a description of the training program, the time period of the proposed affiliation and the proposed supervision requirements.~~

~~(3) The director of the health care facility or training program must submit the completed form to the Board.~~

~~(4) The Board will grant or deny the request for affiliation within 30 days of receipt of the request and will notify the directors of its decision.~~

6.023: Investigator's Duties

It shall be the duty of the Board's investigator upon proper written notice, to visit from time to time, the offices of registered, licensed podiatrists to observe if the offices are maintained in a clean and sanitary manner and that the certificate of registration is

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conspicuously displayed. The investigator shall investigate complaints and obtain other information as directed by the Board.

6.034: Board Approval of Colleges of Podiatric Medicine

The Board may establish standards for colleges of podiatric medicine. The Board shall issue a **certificate of** approval to those colleges of podiatric medicine which have been accredited by the Council on Education of the American Podiatry Association and shall from time to time review such approval in accordance with the M.G.L. c. 112, §16.

6.045: Violation of Board's Rules and Regulations

(1) The Board may, after written notice and hearing, suspend or revoke the license of a registered podiatrist or formally reprimand a licensee on any of the following grounds in violation of the General Laws and/or **this chapter** ~~249 CMR 6.00~~:

- (a) Conviction of a crime including moral turpitude
- (b) Intemperate use of alcoholic beverages or narcotic drugs
- (c) Unprofessional conduct
- (d) Misconduct involving moral turpitude
- (e) Deceit, malpractice and/or gross misconduct in the practice of podiatry; and
- (f) Any act or acts constituting gross incompetence in the practice of podiatry.

REGULATORY AUTHORITY:

249 CMR 6.00: M.G.L. c. 112, §§ 16, 17A, 19 and 61 through 65.

256 CMR 7.00: INSURANCE REQUIREMENTS FOR LIMITED LIABILITY CORPORATIONS AND LIMITED LIABILITY PARTNERSHIPS

Section

7.01: Liability Insurance Requirements for Limited Liability Corporations and Limited Liability Partnerships

7.02: Cancellation of Insurance

7.03: Verification of Insurance

7.01: Liability Insurance Requirements for Limited Liability Corporations and Limited Liability Partnerships

(1) A limited liability company and a limited liability partnership which own or operate any facility or business which provides podiatric services shall maintain professional liability insurance which meets the following minimum standards:

(2) The insurance shall cover negligence, wrongful acts, errors and omissions and insure the LLC and its officers or the LLP and its partners as required by M.G.L. c. 156C, §65 and M.G.L. c. 108A, §45(8)(a), respectively.

- (3) For each claim concerning an LLC, the minimum insurance coverage shall be either:
- (a) in an amount of at least fifty thousand dollars (\$50,000.00) multiplied by the number of individual licensees employed by or who are officers of the LLC; or
 - (b) in an aggregate amount of at least one-hundred fifty thousand dollars (\$150,000.00) multiplied by the number of individual licensees employed by or who are officers of the LLC.
- (4) For each claim concerning an LLP, the minimum insurance coverage shall be:
- (a) in an amount of at least fifty thousand dollars (\$50,000.00) multiplied by the number of individual licensees employed by or who are partners of the LLP; or
 - (b) in an aggregate amount of at least one-hundred fifty thousand dollars (\$150,000.00) multiplied by the number of individual licensees employed by or who are partners of the LLP.
 - (c) An LLP shall be considered to have complied with the requirements of this section if the partnership provides for the above-specified amount of funds specifically designated and segregated for the satisfaction of judgments against the partnership or its partners based on negligence, wrongful acts, errors and omissions by:
 - (i) deposit in trust or in bank escrow of cash, bank certificates of deposit, or United States Treasury obligations; or
 - (ii) a bank letter of credit or insurance company bond.
- (5) The insurance coverage required by this section may provide that it does not apply to any dishonest, fraudulent, criminal or malicious act or omission of the insured LLC or any employee or officer thereof or the insured LLP or any employee or partner thereof.

7.02: Cancellation of Insurance

- (1) Cancellation or any other interruption in required insurance coverage shall require an LLC or LLP to immediately cease the practice of podiatry until such time as the LLC or LLP is in compliance with this section.
- (2) An LLC or LLP must notify the Board within five (5) business days if its insurance coverage is cancelled or otherwise interrupted. Failure to provide the required notice to the Board will subject to disciplinary action pursuant to M.G.L. c. 112, §§12 and 19 licensees who are officers of the LLC or are partners of the LLP.

7.03: Verification of Insurance

An officer of an LLC or a partner of an LLP may be required to provide verification of compliance with this section to the Board when he or she seeks initial licensure, renewal of a license or at any other time as requested by the Board.

REGULATORY AUTHORITY: 249 CMR 7.00: M.G.L. c. 156C, §65.